

HONORABLE EDWARD F. SHEA

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE**

MICHAEL R. SCHMAHL, individually  
and as Personal Representative of the  
Estate of F. MAUREEN SCHMAHL;  
MARY BOYLE, individually; ANNE  
STRATTON, individually; JANIS  
WAGGONER, individually; JERRY  
SCHMAHL, individually; JAMES  
SCHMAHL, individually; and KATHY  
LAST, individually,

Plaintiffs,

vs.

MACY'S DEPARTMENT STORES,  
INC., dba BON-MACY'S, a foreign  
corporation,

Defendant/Third  
Party Plaintiff,

vs.

PALOUSE MALL ASSOCIATES, LLC,  
a Washington Corporation,

Third-Party  
Defendant.

NO. 2:09-cv-00068

**STIPULATION FOR  
AGREED PROTECTIVE  
AND CONFIDENTIALITY  
ORDER**

STIPULATION FOR AGREED PROTECTIVE AND  
CONFIDENTIALITY ORDER - 1

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**REED MCCLURE**  
ATTORNEYS AT LAW  
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(206) 292-4900 FAX (206) 223-0152

**STIPULATION FOR AGREED PROTECTIVE  
AND CONFIDENTIALITY ORDER**

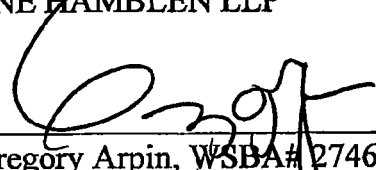
The parties, by and through their attorneys of record, hereby stipulate that the subjoined "Agreed Protective and Confidentiality Order" may be entered in this matter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

PAINE HAMBLÉN LLP

REED McCLURE

By

  
Gregory Arpin, WSBA# 2746  
Attorneys for Palouse Mall

By

SEE ATTACHED  
Anamaria Gil WSBA #22506  
Attorneys for Defendant Macy's

EYMANN ALLISON HUNTER JONES, P.S.

By

SEE ATTACHED  
Steven L. Jones, WSBA# 4876  
Attorneys for Plaintiff

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AND CONFIDENTIALITY ORDER**

The parties, by and through their attorneys of record, hereby stipulate that the subjoined "Agreed Protective and Confidentiality Order" may be entered in this matter.

DATED this 23<sup>rd</sup> day of February, 2010.

PAINE HAMBLÉN LLP

REED McCLURE

By \_\_\_\_\_  
Gregory Arpin, WSBA# 2746  
Attorneys for Palouse Mall

By Anamaria Gil  
Anamaria Gil WSBA #22506  
Attorneys for Defendant Macy's

EYMANN ALLISON HUNTER JONES, P.S.

By Steven L. Jones  
Steven L. Jones, WSBA# 4876  
Attorneys for Plaintiff

STIPULATION FOR AGREED PROTECTIVE AND  
CONFIDENTIALITY ORDER - 2

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**AGREED PROTECTIVE AND  
CONFIDENTIALITY ORDER**

1  
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3  
4 1. Any party to this litigation may designate as "Confidential"  
5 documents and/or information produced by the party or a third party that the  
6 party reasonably considers to be private, confidential, trade secret,  
7 commercially sensitive, and/or proprietary in nature or involving other privacy  
8 rights or interests.

9 2. Any documents, information or materials designated as  
10 "Confidential" shall not be disclosed, published, disseminated, utilized,  
11 exploited or otherwise used in any manner whatsoever other than exclusively  
12 for purposes of this litigation and any appeals therefrom.

13 3. The parties shall not disclose materials or information designated  
14 "Confidential" except to the following: (a) the current parties to this litigation;  
15 (b) counsel for the current parties (including staff employed by counsel) (c)  
16 consulting or expert witnesses employed by counsel of record for the current  
17 parties who agree in writing to be bound by the terms of this Confidentiality  
18 Order by executing a Confidentiality Agreement in the form attached hereto as  
19 Exhibit A; (d) and to the Court, and jury under such limitations as the Court  
20 may determine.

21 4. Prior to disclosing any Confidential materials or information to any  
22 person enumerated above, counsel must first inform each such person in writing  
23 that the documents or information to be disclosed contains or constitutes  
24 private, confidential, and/or proprietary business information which may also be  
25 trade secrets, that must be kept confidential and may be used solely for the

1 purposes of this litigation, and also of the restrictions imposed by this Order  
2 entered by the Court. The persons granted access to any such documents or  
3 information shall not reveal or disclose the contents of the confidential material  
4 for any purposes, including, without limitation, any business, professional or  
5 commercial purpose, other than those directly relating to this litigation. All  
6 such persons shall read this Confidentiality Order or be advised by counsel as to  
7 its contents, and shall agree to be bound by its terms. Furthermore, all  
8 consultants or experts and their staff, who are to be given access to any  
9 confidential material shall first execute a Confidentiality Agreement in the form  
10 attached hereto as Exhibit A, acknowledging that they agree to be bound by the  
11 terms of this Confidentiality Order and will not reveal the documents or  
12 information contained in the confidential materials to any person or entity other  
13 than as allowed by this Order. Upon request by a party, the other party shall  
14 provide a copy of the written notification or Confidentiality Agreement to any  
15 person made in order to comply with this paragraph.

16 5. If any party to this lawsuit believes that any documents it discloses or  
17 produces during discovery are confidential, that party shall designate such  
18 documents as confidential by marking in a clear, obvious, and permanent  
19 manner that identifies the documents as confidential. The marking shall not  
20 obstruct or interfere with the substance of the information on each page of a  
21 confidential document.

22 Testimony shall be designated confidential and subject to the provisions  
23 of this order at the time it is made, or as soon as practicable, but no later than 15  
24 business days from the receipt of any transcript of the testimony.  
25

1           6. If a party intends to quote or attach confidential materials or  
2 information in any filing with this Court or any Appellate Court (including,  
3 without limitation, any pleading, affidavit, declaration, brief, memorandum,  
4 appendix, or deposition transcript), then that party shall give seven days notice  
5 of such intent to all other parties to provide an opportunity to file a motion to  
6 seal or redact such filing. Any pending motion or hearing related to the filing  
7 shall be continued until after the motion to seal or redact has been decided by  
8 the court.

9           7. Approval of this Order by counsel shall not be construed as an  
10 agreement or admission by any party that any documents produced pursuant to  
11 this Order are relevant or material to any issues in this case, or as a waiver of  
12 any privilege or right of privacy with respect thereto.

13           8. Any party may dispute the "Confidential" designation of any  
14 materials or information designated Confidential by filing a Motion within 30  
15 days of the designation. Failure to do so waives any claim that the documents  
16 or information are not Confidential, absent a showing of good cause why failure  
17 to so move should not constitute a waiver.

18           9. No later than 60 days following the conclusion of this case,  
19 including any appeals therefrom, the parties, their counsel, and all persons or  
20 entities in possession of confidential materials or information shall either  
21 destroy or return all such materials and information to counsel producing them,  
22 shall not keep any copies thereof, and shall assure opposing counsel, in writing,  
23 that all such documents and information have been returned or destroyed.

24           10. All confidential information or materials that any party intends to  
25 use at trial shall be specifically identified and disclosed to opposing counsel no

1 later than 30 days before trial so that appropriate protection against publication  
2 or dissemination at trial may be sought.

3 11. This Order shall remain in effect unless or until it is modified by  
4 the Court.

5 DONE IN OPEN COURT this 26th day of February  
6 2010.

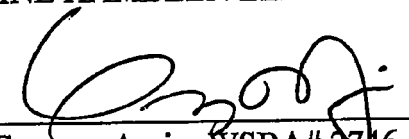
7  
8 s/Edward F. Shea

9 HONORABLE EDWARD F. SHEA

10 Presented By:

11 PAINE HAMBLIN LLP

12 REED McCLURE

13 By   
14 Gregory Arpin, WSBA# 2746  
15 Attorneys for Palouse Mall

16 By SEE ATTACHED  
17 Anamaria Gil WSBA #22506  
18 Attorneys for Defendant Macy's

19 EYMANN ALLISON HUNTER JONES, P.S.

20 By SEE ATTACHED  
21 Steven L. Jones, WSBA# 4876  
22 Attorneys for Plaintiff  
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2 or dissemination at trial may be sought.

3 11. This Order shall remain in effect unless or until it is modified by  
4 the Court.

5 DONE IN OPEN COURT this \_\_\_\_ day of \_\_\_\_\_,  
6 2010.

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15 Attorneys for Palouse Mall

16 By Anamaria Gil  
17 Anamaria Gil WSBA #22506  
18 Attorneys for Defendant Macy's

19 EYMAN ALLISON HUNTER JONES, P.S.

20 By Steven L. Jones  
21 Steven L. Jones, WSBA# 4876  
22 Attorneys for Plaintiff

**EXHIBIT A**

**CONFIDENTIALITY AGREEMENT**

I have read the attached Confidentiality Order entered in this action and dated \_\_\_\_\_, 2010, I agree to be bound by the terms of the Confidentiality Order, and will not reveal the documents or information contained in the confidential materials to any person or entity other than as allowed by the Confidentiality Order.

I certify under penalty of perjury that the foregoing is true and correct.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Washington.

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Signature]